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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,448	05/04/2007	Thomas P. Fechter	124588.00067	8741
26710	7590	01/25/2010		
QUARLES & BRADY LLP			EXAMINER	
411 E. WISCONSIN AVENUE			GRANT, ALVIN J	
SUITE 2040				
MILWAUKEE, WI 53202-4497			ART UNIT	PAPER NUMBER
			3723	
			NOTIFICATION DATE	DELIVERY MODE
			01/25/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,448	<b>Applicant(s)</b> FECHTER ET AL.
	<b>Examiner</b> ALVIN J. GRANT	<b>Art Unit</b> 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 September 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 4-22 is/are pending in the application.  
 4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,4,5 and 7-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/1449)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

The Requirement for Restriction dated 8/10/09 has been withdrawn. The reason being that the newly added method claims, that were submitted following the Non-Final Rejection of 2/13/09, were directed to a method when the original (rejected) claims were directed to an apparatus. The Examiner erred in restricting the claims between the apparatus and the method.

#### ***Election/Restrictions***

1. Newly submitted claims 12-22 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The invention as originally claimed is directed to an apparatus, while the newly submitted claims are directed to a method.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 12-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 4, 5 and 7-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Landrum 5,617,771 in view of Bickford 4,864,903.

Landrum discloses a hydraulic torque wrench fastener tightening system having the claimed features that include: a double acting cylinder that turns a socket of the wrench upon an advance of the cylinder and ratchets backward over the socket without turning the socket upon a retract of the cylinder in which, in response to an operator actuating an advance actuator and holding it actuated, the system alternately: (a) applies a pressure to the cylinder to advance the cylinder until a programmable set pressure is reached; and (b) applies a pressure to the cylinder: to retract the cylinder; such that when a desired torque of the fastener is reached the alternation cycle between processes (a) applying a pressure to the cylinder to advance the cylinder and (b) applying a pressure to the cylinder to retract the cylinder is reduced in duration and thereby indicates to the operator that the fastener has reached the desired torque; the process of (b) applying a pressure to the cylinder to retract the cylinder is terminated when a set pressure is reached (col. 3, line 44-col. 5, line 18); and the indication to the operator that the fastener has reached the desired torque is a visual indication (col. 5, lines 60-64); and after the fastener has reached the desired torque the system shuts off a motor that drives a pump of the system. Landrum does not specifically disclose the fastener reaching the desired torque with an audible indication. Bickford discloses a hydraulic powered wrench in which the desired torque is indicated by an audible transmission so as to ensure that the workpiece is torqued to the prescribed limit. It

would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the apparatus of Landrum to have the desired torque indicated by an audible transmission as taught by Bickford so as to ensure that the workpiece is torqued to the prescribed limit.

***Response to Arguments***

4. Applicant's arguments filed 6/13/08 have been fully considered but they are not persuasive.

In response to applicant's arguments that US Patent 5,617,771 (to Lundrum) requires different method steps *by the operator* to operate the tool from that claimed, Landrum's apparatus comprises the elements claimed by Applicant. Since the claims are apparatus claims and not method claims applicant's arguments, in this regard, are not convincing.

In response to applicant's arguments that Landrum's apparatus does not continue to wok once the desired torque is reached and that the operator has to conduct the finished mode manually. Besides the fact that these are functional characteristics, the pump also allows the operator to operate the pump manually or to set the pump for automatic operation (col. 3, lines 1-5).

5. Applicant's arguments with respect to US Patent 4,794,826 reference (to Frank) have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN J. GRANT whose telephone number is (571)272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. G./  
Examiner, Art Unit 3723

/Joseph J. Hail, III/  
Supervisory Patent Examiner, Art Unit 3723